



ZONING ADMINISTRATOR
NOTICE OF DECISION

Date: October 10, 2011
Applicant: Guo Quan Hu, Mandarin Beijing Chinese Cuisine Inc.
Case No.: PCC-11-051
Address: 2130 Birch Road, Suite 101, Chula Vista, Ca.
A.P.N.: 643-770-09-00
Project Planner: Richard Zumwalt, A.I.C.P., Associate Planner

Notice is hereby given that on October 10, 2011, the Zoning Administrator considered a Conditional Use Permit (PCC-11-051) application filed by Guo Quan Hu, Mandarin Beijing Chinese Cuisine Inc. ("Applicant") to allow the on-site sales and consumption of alcohol at a restaurant called Mandarin Beijing Restaurant ("Project"), at the Otay Ranch Winding Walk Marketplace located at 2130 Birch Road, Suite 101, Chula Vista, Ca. ("Project Site"). The Project Site is zoned Planned Community (P-C) Mixed Use Commercial with a General Plan designation of Mixed Use Residential (MUR). The Property is owned by Winding Walk Marketplace, LLC ("Property Owner"). The proposed land use is more specifically described below:

The application requests approval of a Conditional Use Permit to operate a restaurant serving Chinese food, including dine-in, take out, and the on-site sale and consumption of alcoholic beverages, limited to the sale of beer and wine only. The restaurant would occupy an existing 1,714 square foot suite with a capacity of 28 customers. The restaurant would be open between 11:00 a.m. to 10:00 p.m, Sunday through Thursday, and 11:00 am to 12:00 am Friday and Saturday. The restaurant anticipates 4 employees and serves lunch and dinner daily with alcoholic service available for on-site consumption only. No live entertainment is proposed.

Pursuant to the Otay Ranch Village Eleven Planned Community District Regulations, restaurants with alcoholic beverages and/or live entertainment are conditionally permitted subject to approval of a Conditional Use Permit.

The Director of the Development Services Department has reviewed the proposed Project for compliance with the California Environmental Quality Act and has determined that the Project qualifies for a Class 1 categorical exemption pursuant to Section 15301 (existing facilities) of the State CEQA Guidelines. Thus, no further environmental review is necessary.

The Zoning Administrator, under the provisions of Section 19.14.030 A of the Chula Vista Municipal Code, has been able to make the Conditional Use Permit findings as required by CVMC Section 19.14.080:

That the proposed use at this location is necessary or desirable and will contribute to the general well being of the neighborhood or the community.

The proposed Chinese restaurant is located within a major commercial center with nearly 103,663 square feet of retail, commercial and restaurant uses. The restaurant is consistent with the types of uses that would be found within a commercial center. The restaurant with incidental alcohol sales would provide desirable dining opportunities for the Otay Ranch community and surrounding areas. The restaurant and incidental alcohol sales would provide customary service typically offered by other dine-in restaurants in the area.

That such use will not under the circumstances of the particular case be detrimental to the health, safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity.

The restaurant would be located within the food court of the existing commercial center, which has been designed for this and other complimentary food and retail uses. The shopping center food court is located across Birch Road from the Landings Condominiums, and the restaurant would be approximately 150 feet from the apartments. Conditions of approval are included in the CUP which will reduce the potential for any adverse affect on the adjacent neighborhood from the sale and consumption of alcoholic beverages. The conditions include a limitation of alcohol sales to the hours specified in this permit, that alcohol sales can only be conducted indoors and are prohibited outside the restaurant in the food court area, and that the doors to the business be closed after 9 pm to minimize any noise related to the operation of the restaurant and sale of alcoholic beverages. Other conditions of approval are included which will limit the number of alcoholic beverages sold at one time to customers, prohibit sales to minors, and minimize loitering adjacent to the restaurant. The applicant is required to obtain an Alcoholic Beverage Control license from the State Of California Alcoholic Beverage Control Commission (ABC) for the sales of alcohol complying with all applicable state and local regulations.

That the proposed use will comply with the regulations and conditions specified in the code for such use.

The use requires the Applicant and Property Owner to fulfill conditions and to comply with all applicable regulations and standards specified in the City's Municipal Code. The conditions of this permit are approximately in proportion to the nature and extent of the impacts created by the use in that the conditions imposed are directly related to, and of a nature and scope related to the size and impact of the use. The use complies with all regulations and conditions specified in the CVMC, including the Planned Community (P-C) Mixed Use Commercial zone, as established under Conditional Use Permit PCC-11-051. The project conditions of approval will require the operation to be in continuing compliance with all applicable city codes and regulations.

That the granting of this Conditional Use Permit will not adversely affect the General Plan of the City or the adopted plan of any government agency.

The General Plan designates the site as Mixed Use Residential, which permits mixed Residential and Commercial land uses. Restaurants, which sell alcoholic beverages for onsite consumption, are considered consistent with Mixed Use Residential land uses, upon approval of a Conditional Use Permit. Thus, the proposed incidental alcohol sales to the restaurant use is consistent with

the General Plan – land use element, and the Otay Ranch Village 11 Winding Walk SPA Plan and PC District Regulations, and will not adversely affect the City’s General Plan.

BASED ON THE FINDINGS ABOVE, THE ZONING ADMINISTRATOR hereby approves Conditional Use Permit PCC-11-051 as described above. The following conditions shall apply to the Project Site, and the Applicant or successor-in-interest shall satisfy these conditions prior to issuance of the first building permit for the project, or at the timeframe specified in the condition:

PLANNING DIVISION:

1. The Project Site shall be developed and maintained in accordance with the PCC-11-051 approved plans, which include site plans and floor plans on file in the Planning Division, the conditions contained herein, and the Zoning Ordinance (Title 19). The Applicant or successor-in-interest shall remain in compliance with the conditions as long as the Project relies upon this approval.
2. The Property Owner or authorized representative shall execute this document by making a true copy of this Notice of Decision and signing both this original notice and the copy on the lines provided below, said execution indicating that the Property Owner and the Applicant have each read, understood and agreed to the conditions and land use operation modifications contained herein, and will implement same. Upon execution, the true copy with original signatures shall be returned to the Development Services Department. Failure to return the signed true copy of this document prior to submittal for building permits to the Development Services Department shall indicate the Property Owner’s and Applicant’s desire that the project, and the corresponding application for building permits and/or a business license, be held in abeyance without approval.

Signature of Property Owner

Date

Signature of Applicant or Authorized Representative

Date

3. Prior to final inspection, the Applicant shall comply with the approved Building Permit B11-0420 requirements to the satisfaction of the Development Services Department’s Building, Engineering and Planning Divisions, and the Chula Vista Fire Department.
4. The applicant shall obtain an alcoholic beverage control license from the State of Ca. ABC prior to commencement of sale of alcoholic beverages. The Applicant shall comply with the applicable State ABC Laws and City Ordinances, and all conditions required by the Chula Vista Police Department pertaining to the sale and consumption of alcoholic beverages.

LAND DEVELOPMENT DIVISION – ENGINEERING:

5. The following fees will be required based on the final Building Plans submitted:

1. Sewer connection and capacity fees
2. Traffic Signal Fees
3. Eastern Transportation Development Impact Fee

FIRE DEPARTMENT:

6. If there are any modifications to the sprinkler system, a deferred building permit submittal will be required, and submitted to the Fire Department for approval prior to any modifications.

Upon certification by the Development Services Department for occupancy or establishment of use allowed by this Conditional Use Permit, the following conditions shall apply:

PLANNING DIVISION:

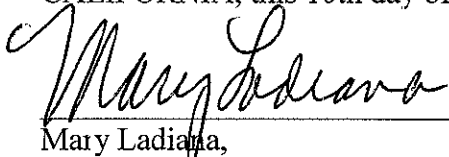
7. This permit is valid for operation of a restaurant with on-site sales of beer and wine only.
8. The hours of operation of the restaurant shall be 11:00 a.m. to 10:00 p.m, Sunday through Thursday, and 11:00 am to 12:00 pm Friday and Saturday.
9. The Applicant shall operate the project in compliance with the Performance Standards, CVMC Chapters 19.66 and Performance Standards and Noise Control, Chapter 19.68. If a formal complaint is received by the Director of Development Services, or if the Director determines that the Applicant is not operating in compliance with the conditions of approval of this permit, then the Director has the discretion to initiate an investigation which may include requesting the applicant to submit plans, technical studies such as acoustical studies, or other information deemed necessary to respond to the complaint or non-compliance issue. After review, the Director has the discretion to either maintain the existing Conditional Use Permit, modify the Conditional Use Permit, or revoke the Conditional Use Permit, pursuant to the requirements of CVMC Section 19.14.270.
10. The Applicant, shall operate the business in compliance with the following requirements of the Chula Vista Police Department, including:
 - a. Sales, service and consumption of alcoholic beverages shall be limited to beer and wine only.
 - b. Sales, service and consumption of alcoholic beverages shall only be permitted inside the premises between the hours of 11:00 AM and 10:00 PM Sunday through Thursday and 11:00 AM and 12:00AM on Friday and Saturdays.
 - c. Sales, service and consumption of alcoholic beverages shall be prohibited in the outdoor patio area.
 - d. All doors of the business will be kept closed after 9 PM.
 - e. It will be the duty and responsibility of all restaurant owners, managers, and employees to prevent underage patrons from obtaining alcoholic beverages by closely monitoring clientele and intervening whenever necessary.

- f. The applicant's management or designees shall remove and bar from re-entry, any patron involved in providing, furnishing, or passing alcoholic beverages to any individual inside the facility who is under 21 years of age. In addition, the applicant's management or designees shall remove and bar from re-entry any individual who is under 21 years of age who possesses and/or consumes alcohol inside the facility.
 - g. Only persons of the age of 21 or over may purchase, possess and consume alcohol.
 - h. A maximum of two alcoholic beverages are to be sold to any one person at a time.
 - i. The use of any amplifying system or device inside the premises shall not be audible 25 feet outside of the ABC designated alcohol service areas.
 - j. There will be no live entertainment, including DJ's, except that licensed and permitted by the CVPD and the ABC.
 - k. There will be no amplified music on the exterior patio of the Mandarin Beijing Restaurant except that provided by Otay Ranch-Windingwalk.
 - l. Loitering is prohibited on or around the premises under control of the applicant. The applicant shall police the area under their control in an effort to prevent loitering.
 - m. Signs must be posted at all exits, to include exits on the patio, advising customers that open containers of alcohol are prohibited outside of the ABC established services areas.
 - n. All servers/managers/owners shall attend LEAD training given by ABC.
 - o. The Chula Vista Police Department shall be notified in writing or email, at least 10 days prior to a private party or event that involves over 50 people on the guest list.
 - p. Mandarin Beijing shall implement the security recommendation of the Crime Prevention Unit of the Police Department, including access control, surveillance detection, and police response, and ongoing training of management and employees in security procedures and crime prevention. Implementation of these recommendations shall coincide with the commencement of operations.
 - q. No hosting by outside promoters of live entertainment will be permitted at the restaurant without written permission of the City of Chula Vista Police Department.
 - r. There shall be no public dance conducted on the premises without a license as required by Chula Vista Municipal Code Section 5.26. Any licenses or special event permits issued must be kept at the premises and presented to ABC or City officials upon request.
 - s. The City of Chula Vista Police Department reserves the right to impose additional security conditions as part of any dance, live entertainment, or special event permit approval process.
11. This Conditional Use Permit for the incidental sale and onsite consumption of alcohol shall be applied to Mandarin Beijing or similar food establishments at this location. In the event that a different type of food establishment is proposed where the sale and onsite consumption of alcohol is a principal and not an incidental use, an amendment to this

Conditional Use Permit or a new Conditional Use Permit shall be required prior to the sale of alcohol.

12. Prior to approval of any request for an amendment of the approved ABC license or this Conditional Use Permit, submit and obtain approval of an application requesting a substantial conformance review or modification of this Conditional Use Permit, for consideration by the Director of Development Services and the Chula Vista Police Department.
13. This permit shall become void if not used or extended within three years of the effective date thereof in accordance with Section 19 14 260 of the Chula Vista Municipal Code. Failure to comply with the any conditions of approval shall cause this permit to be reviewed by the City for additional conditions or revocation.
14. Applicant and his/her successors in interest agree to defend, indemnify and hold harmless the City and its agents, officers and employees, from any claim, action or proceeding against the City, or its agents, officers or employees, to attack, set aside, void or annul any approval by the City, including approval by its Planning Commission, City Council or any approval by its agents, officers, or employees with regard to this Conditional Use Permit, provided the City promptly notifies the Applicant of any claim, action or proceeding and on the further condition that the City fully cooperates in the defense.

APPROVED BY ZONING ADMINISTRATOR OF THE CITY OF CHULA VISTA,
CALIFORNIA, this 10th day of October, 2011.



Mary Ladiara,
Zoning Administrator